

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DAVID KNIFFEN,

Plaintiff,

v.

Case No.: 04-70497

HONORABLE VICTORIA A. ROBERTS

LT. JOSEPH GUZDZIOL, et al.,
_____ /

ORDER DENYING PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT

On April 14, 2005, Plaintiff filed a motion seeking entry of default against Defendant David Greenlee [Doc. 88]. State of Michigan Defendants filed a response stating that Defendant Greenlee is a member of the United States Armed Forces. Plaintiff filed a reply alleging that Plaintiff has received hearsay information that Defendant Greenlee was no longer in the military and was seen recently working in the Macomb Mall.

The Servicemembers Civil Relief Act, 50 U.S.C. § 521(b) requires:

(1) Plaintiff to file affidavit. In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit--

(A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or

(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

Plaintiff's reply brief does not contain an affidavit as required under 50 U.S.C. §

521(b)(1). Therefore, the Court must DENY Plaintiff's motion.

IT IS SO ORDERED.

s/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: May 18, 2005

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on May 18, 2005.

s/Linda Vertriest

Deputy Clerk